IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/10/2003

CORAM

THE HONOURABLE MR. JUSTICE V.KANAGARAJ

Civil Revision Petition (P.D.) No.422 of 2003

M/s.South India Export Co. (P) Ltd.,
rep. by its Managing Director,
Chennai-1. .. Petitioner

-Vs-

1. Regional Office (Tamil Nadu)
Employees State Insurance
Corporation, rep. by its
Deputy Director
Panchdeep Bhavan,
Chennai.

2. The Recovery Officer,
ESI Corporation,
Chennai-34. .. Respondents

Petition filed under Article 227 of the Constitution of India praying for the relief as stated therein.

For petitioner : Mr.P.Dhananjayan

For respondents : No Appearance

:O R D E R

This civil revision petition is directed against the order dated 28 .01.2003 made in C.M.P. No.22 of 2003 in EIOP SR No.296 of 2003 by the Court of Principal Judge, Labour/ESI Court in Chennai.

2. Tracing the history of the above civil revision petition coming to be filed by the petitioner, it comes to be known that the Labour Court has passed an order granting interim stay and ordering notice on condition that the petitioner should deposit 20% of the amount claimed in the order under Section 45-A on or before 26.2.2003, failing which, the stay granted shall stand vacated. This is the order which is under challenge by the petitioner on the ground that the learned Judge failed to appreciate the

fact that no order under Section 45-A was passed by the first respondent, after the show cause notice dated 20.9.2002 issued by the first respondent; that the learned Judge failed to appreciate the fact that in the absence of the order under Section 45-A, the second respondent has no right to proceed further to recover the above contribution from the petitioner Company; that the attachment order issued by the second respondent dated 8.1.2003 is without following the due process of law; that the learned Judge failed to appreciate the fact that the petitioner has already filed CMP Nos.2 99 and 300 of 2002 against the order under Section 45-A dated 19.1.20 02 issued by the first respondent and in that order, the first respondent has directed the petitioner to pay Rs.5,96,843/= as contribution charges for the periods from 1994-95 to 2000-2001; and that the learned Judge has failed to appreciate the fact that the contribution charges of Rs.5,96,843/=, against which no show cause notice has been issued by the first respondent, also include the contribution charges of Rs.4,38,854/=.

3. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for the petitioner, it comes to be seen that the petitioner herein has filed an application under Section 151 CPC before the Principal Labour Court at Chennai praying that in the circumstances as prayed for in the affidavit therein, interim stay of the order dated 8.1.2003 issued by the respondents/Officers against the Company and while considering the stay petition, the Principal Labour Court at Chennai has passed the order extracted supra granting interim stay and ordering notice on condition that the petitioner should deposit 20% of the amount claimed in the order passed under Section 45-A on or before 26.2.2003.

4. It has to be pointed out this is the usual order that the Labour Court would pass in the normal course of business when such an application is filed on the part of the parties like the petitioner herein, praying for a stay, and there is no peculiarity in the said order nor has it been barred by any law. After all, the Labour Court Judge, while exercising his discretion, would require the party to deposit a part of the amount claimed and in the case in hand, he has directed to deposit 20% of the amount claimed, which is meagre and reasonable and on such condition, he has granted the prayer of the petitioner for interim stay and notice, of course, upto 26.2.2003, further ordering that in case of any failure to deposit the said 20% of the amount, the interim stay granted would get vacated then. This order being a conditional order, it should have been complied with within the specified time of 26.2.2003 and on the failure of the petitioner to do so, by operation of the conditional clause, the stay got vacated then and there, as on 26.2.2003 and therefore, nothing remains for the petitioner to get redressed before this Court and in fact, it is a finished chapter. If the petitioner had paid the amount, the stay would have sustained or else, the stay would have got vacated and therefore, except to declare the law pertaining to the order passed by the lower court, this Court does not see anything constructive role to play in this regard and hence, the above revision petition only becomes liable to be dismissed as unnecessary and is dismissed as such.

In result, the above civil revision petition does not merit acceptance and the same is dismissed as such.

Consequently, CMP No.2799 of 2003 is also dismissed.

Index:Yes.
Internet:Yes.

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To

The Principal Labour Court,
Chennai.